

Ex. 08
Evans Opening Opinion Summaries

C. Summary of Opinions

12. At the conclusion of my research, I have reached 22 principal opinions which I summarize below, divided into four main areas. This summary is not intended to be exhaustive and the body of my report provides the full set of opinions and their support.

1. **Opinions Regarding the Economic Background on the Digital Economy and the App Ecosystem**

- Opinion 1.1: The digital economy is vast, growing, and heavily reliant on smartphones and apps, but access to it is largely controlled by two main gateways, including Apple's App Store, for reaching consumers.
- Opinion 1.2: App distribution and operating systems are distinct products, with separate demand, and usually offered by different businesses in the absence of prohibitions, including for smartphones.
- Opinion 1.3: Operating systems, including smartphone operating systems, are two-sided platforms for app users and app developers, with significant indirect network effects.
- Opinion 1.4: Online marketplaces, including app distributors that operate online marketplaces, are two-sided platforms with significant indirect network effects between consumers and merchants.
- Opinion 1.5: The growth and success of the app economy, including that based on the iPhone, has resulted from the confluence of many factors and has not depended on Apple having exclusive control over app distribution for its iOS operating system.

2. **Opinions Regarding the Economic Analysis of Relevant Antitrust Markets for Evaluating Apple's App Distribution Restrictions, and the Assessment of Market Power in Those Markets**

- Opinion 2.1: The market for smartphone operating systems, which provide an app platform for users and developers, is the relevant antitrust foremarket, and it is a two-sided market.⁹ The smartphone operating system market has been a duopoly of iOS

⁹ Based on economic analyses I have conducted, and report below, all of my opinions would hold if there were separate single-sided markets for users and developers for smartphone operating systems and app distribution. My opinions also hold regardless of whether smartphone operating systems, or app distribution, are considered to be transaction platforms.

and Android, protected by high entry barriers, for at least a decade. This market is global, excluding China.

- Opinion 2.2: Apple has substantial market power over users and developers, which has persisted for at least a decade, in the smartphone operating system market, where it faces competition from just one differentiated rival, Android, and consumers have high switching costs.
- Opinion 2.3: The distribution of compatible apps for the iOS operating system, for iOS app users and iOS app developers, is a relevant antitrust aftermarket, and it is a two-sided market. The iOS app distribution market is global, excluding China.
- Opinion 2.4: Prices in the iOS app distribution aftermarket are not constrained by the smartphone operating system foremarket, in which there is limited competition with just one rival and where consumers face high switching costs, and other factors prevent the foremarket from providing a competitive constraint on the aftermarket.
- Opinion 2.5: The App Store has monopoly power in the iOS app distribution market, as a result of contractual and technical barriers Apple has imposed, [REDACTED]
[REDACTED]
[REDACTED]

3. Opinions Regarding the Competitive Effects of Apple's Foreclosure of Alternative Channels of iOS App Distribution

- Opinion 3.1: There would have been substantial competition in iOS app distribution in the absence of Apple's conduct, based on the experience of app distribution for macOS and Windows personal computers and Android app distribution in China.
- Opinion 3.2: Insulated from competition, the App Store [REDACTED]
[REDACTED] has been slow to adopt common features of modern online marketplaces, has provided limited services to developers and kept prices high, [REDACTED]
[REDACTED]
- Opinion 3.3: Apple's foreclosure of iOS app distribution has harmed iOS app developers, who would otherwise have paid less for app distribution services, gotten more and better app distribution services, had higher sales of in-app content, and had more options to avoid Apple's efforts to limit competition with Apple's own apps.
- Opinion 3.4: Apple's foreclosure of iOS app distribution has harmed iOS users who would otherwise have paid less for app distribution services, gotten more and better app distribution services, and purchased more in-app content.
- Opinion 3.5: Apple's foreclosure of iOS app distribution has harmed competition, raised prices, reduced output, and reduced innovation in the relevant two-sided

antitrust market for iOS app distribution for users and developers, and has injured Epic as a game developer and app store.

4. Opinions Regarding the Relevant Market for Assessing Apple's Payment Processing Restrictions and the Competitive Effects of These Restrictions

- Opinion 4.1: The online payment processing industry has grown over the last two decades to provide specialized, and innovative, solutions to taking payments online, for apps and the web. Developers work with payment processors to create their own solutions for taking payments from consumers.
- Opinion 4.2: Given a choice, app developers often devise their own payments solutions in concert with payment processors that they contract with, and there is separate demand for these payment solutions.
- Opinion 4.3: There is separate demand for app distribution and for payment solutions for in-app transactions, and IAP is not a necessary integrated feature of the App Store.
- Opinion 4.4: There is a relevant antitrust market for solutions for accepting and processing payments for digital content purchased within an iOS app. It is a single-sided market, and its geographic scope is global excluding China.
- Opinion 4.5: The App Store's payment processing restrictions have harmed competition, raised prices, reduced output, and suppressed innovation for payment solutions for digital content apps in the relevant antitrust market, and have injured Epic as a game developer.
- Opinion 4.6: Apple has tied the App Store, which has monopoly power, with Apple's payment solution, and this tie has foreclosed a substantial amount of commerce in the market for online payment solutions for digital content purchased within iOS apps.
- Opinion 4.7: The App's Store requirement that digital content developers process payments through Apple's payment solution is not an economically innocuous method for collecting monopoly profits, does not prevent free-rider problems, and lacks other procompetitive efficiencies that Apple has claimed so far in these proceedings.